



## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

**[Doc. No. AMS-NOP-16-0028; NOP-16-01]**

#### **National Organic Program: Notice of Draft Guidance on Treated Lumber**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of availability of draft guidance with request for comments.

**SUMMARY:** The Agricultural Marketing Service (AMS) is announcing the availability of a draft guidance document intended for use by accredited certifying agents and organic producers. The draft guidance document is entitled: Treated Lumber (NOP 5036). This draft guidance document is intended to inform the public of the National Organic Program's (NOP) current thinking on this topic. The AMS invites interested parties to submit comments about these guidance provisions.

**DATES:** To ensure that NOP considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written comments on the draft guidance by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit written requests for hard copies of this draft guidance to Devon Pattillo, Agricultural Marketing Specialist, National Organic Program (NOP), USDA-AMS-NOP, 1400 Independence Ave. SW, Room 2646—So., Ag Stop 0268, Washington, DC 20250-0268. See the SUPPLEMENTARY INFORMATION section for electronic access to the draft guidance document.

You may submit comments on this draft guidance document by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Devon Pattillo, Standards Division, National Organic Program, USDA-AMS-NOP, 1400 Independence Ave., SW., Room 2646—So., Ag Stop 0268, Washington, DC 20250-0268.

*Instructions:* Written comments responding to this request should be identified with the document number AMS-NOP-16-0028; NOP-16-01. You should clearly indicate your position and the reasons supporting your position. If you are suggesting changes to the draft guidance document, you should include recommended language changes, as appropriate, along with any relevant supporting documentation.

USDA intends to make available all comments, including names and addresses when provided, regardless of submission procedure used, on [www.regulations.gov](http://www.regulations.gov) and at USDA, AMS, NOP, Room 2646-South building, 1400 Independence Ave., SW, Washington, D.C., from 9 a.m. to noon and from 1 to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South building to view comments from the public to this notice are requested to make an appointment by calling (202) 720-3252.

**FOR FURTHER INFORMATION CONTACT:** Devon Pattillo, Agricultural Marketing Specialist, National Organic Program (NOP), USDA-AMS-NOP, 1400 Independence Ave. SW, Room 2646—So., Ag Stop 0268, Washington, DC 20250-0268; Telephone: (202) 720-3252; Fax: (202) 260-9151; Email: [NOP.Guidance@ams.usda.gov](mailto:NOP.Guidance@ams.usda.gov); or visit the NOP Web site at: [www.ams.usda.gov/nop](http://www.ams.usda.gov/nop).

**SUPPLEMENTARY INFORMATION:**

## I. Background

The draft guidance document announced through this document was developed to clarify the requirements and limitations of the prohibition on treated lumber in organic production. USDA organic regulations (7 CFR part 205) prohibit use of lumber treated with arsenate or other non-allowed synthetic substances in contact with soil and livestock (7 CFR 205.206). Non-allowed synthetic substances include all synthetic substances that are not specifically included on the “National List” at 7 CFR 205.601 through 205-606.

The document provides guidance for certifying agents, organic producers, and other interested parties on compliance with 7 CFR 205.206(f), including:

- How lumber treated with prohibited substances affects a producer’s timeline for obtaining certification;
- Where lumber treated with prohibited substances can and cannot be placed on organic farms, for new installations or replacement of existing lumber;
- How organic producers can prevent crops and livestock from contacting lumber treated with prohibited substances.

A notice of availability of final guidance on this topic will be issued upon its final approval. Once finalized, this guidance will be available in “The Program Handbook: Guidance and Instructions for Accredited Certifying Agents (ACAs) and Certified Operations”. This Handbook provides those who own, manage, or certify organic operations with guidance and instructions that can assist them in complying with the USDA organic regulations. The current edition of the Program Handbook is available online at <http://www.ams.usda.gov/rules-regulations/organic> or in print upon request.

## II. Significance of Guidance

This draft guidance document is being issued in accordance with the Office of Management and Budget (OMB) Bulletin on Agency Good Guidance Practices (GGPs) (January 25, 2007, 72 FR 3432-3440).

The purpose of GGPs is to ensure that program guidance documents are developed with adequate public participation, are readily available to the public, and are not applied as binding requirements. This draft guidance represents NOP's current thinking on the topic. It does not create or confer any rights for, or on, any person and does not operate to bind the NOP or the public. Guidance documents are intended to provide a uniform method for operations to comply that can reduce the burden of developing their own methods and simplify audits and inspections. Alternative approaches that can demonstrate compliance with the Organic Foods Production Act (OFPA), as amended (7 U.S.C. 6501-6522), and its implementing regulations are also acceptable. As with any alternative compliance approach, NOP strongly encourages industry to discuss alternative approaches with NOP before implementing them to avoid unnecessary or wasteful expenditures of resources and to ensure the proposed alternative approach complies with the Act and its implementing regulations.

### III. Electronic Access

Persons with access to Internet may obtain the draft guidance at either NOP's website at <http://www.ams.usda.gov/rules-regulations/organic> or <http://www.regulations.gov>. Requests for hard copies of the draft guidance documents can be obtained by submitting a written request to the mailing address listed in the ADDRESSES section of this document.

Authority: 7 U.S.C. 6501-6522.

Dated: August 25, 2016

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Agricultural Marketing Service

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